

# State of South Dakota

SEVENTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 1997

463A0484

SENATE COMMERCE COMMITTEE ENGROSSED

NO. **SB107** - 1/29/97

Introduced by: Senator Shoener and Representative Roe

1 FOR AN ACT ENTITLED, An Act to clarify governmental ownership of insurance companies  
2 upon certain findings by the director of the Division of Insurance.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 58-6-10 be amended to read as follows:

5 58-6-10. Except for instrumentalities of the United States government, no insurer, the voting  
6 control or ownership of which is held in whole or substantial part by any government or  
7 governmental agency, or which is operated for or by any such government or agency, ~~shall be~~  
8 ~~authorized to~~ may transact insurance in this state, unless, upon verified application by the insurer,  
9 the director finds that:

10 (1) The insurer is not subject to any form of subsidy that would enable it to compete  
11 unfairly with domestic insurers;

12 (2) The insurer is not subject to governmental practices that discriminate on the basis of  
13 race, color, creed, or national origin;

14 (3) The ownership or financial control does not create the presence of any sovereign  
15 immunity in the insurer;

1       (4)   The insurer has agreed to waive sovereign immunity as a defense should it exist for  
2           any action by or against the director pursuant to the director's regulatory authority  
3           under Title 58;

4       (5)   The insurer has agreed that it will exhaust all administrative remedies and will neither  
5           commence in, nor remove to, federal court any action by or against the director  
6           pursuant to the director's regulatory authority under Title 58;

7       (6)   Appropriate measures and controls exist to avoid security problems resulting from an  
8           insurer's access to confidential information and data of its insured; and

9       (7)   The ownership or financial control does not result in substantial or undue influence  
10          being asserted over the insurer.

11       Membership in a mutual insurer, or subscribership in a reciprocal insurer, or ownership of  
12       stock of an insurer by the alien property custodian or similar official of the United States, or  
13       supervision of an insurer by public insurance supervisory authority ~~shall~~ does not ~~be deemed to~~  
14       ~~be an~~ constitute ownership, control, or operation of the insurer for the purposes of this section.  
15       Nothing contained in this section ~~shall prohibit~~ prohibits or affects self insurance by school  
16       districts as provided in § 13-10-3, or by municipalities as provided in § 9-14-30. The failure of  
17       any applicant under this section to submit all information requested by the director pursuant to  
18       this section and the director's regulatory authority under Title 58 relevant to any finding to be  
19       made under this section is sufficient to deny the application.

1    **BILL HISTORY**

2    January 22 - First read in Senate and referred to Commerce. S.J. 84

3    January 28 - Scheduled for hearing.

4    January 28 - Passed as amended, AYES 6, NAYS 1. S.J. 187